

Social Security Administration

§ 404.429

he is age 18 or over and is entitled to child's benefits because she or he is a full-time student at an educational institution. This paragraph applies to benefits for months after December 1964.

[68 FR 4710, Jan. 30, 2003, as amended at 68 FR 40122, July 7, 2003]

§ 404.423 Manner of making deductions.

Deductions provided for in §§ 404.415, 404.417, and 404.421 (as modified in § 404.458) are made by withholding benefits (in whole or in part, depending upon the amount to be withheld) for each month in which an event causing a deduction occurred. If the amount to be deducted is not withheld from the benefits payable in the month in which the event causing the deduction occurred, such amount constitutes a *deduction overpayment* and is subject to adjustment or recovery in accordance with the provisions of subpart F of this part.

[32 FR 19159, Dec. 20, 1967, as amended at 68 FR 40122, July 7, 2003]

§ 404.424 Total amount of deductions where more than one deduction event occurs in a month.

If more than one of the deduction events specified in §§ 404.415, 404.417, and 404.421 occurred in any 1 month, each of which would occasion a deduction equal to the benefit for such month, only an amount equal to such benefit is deducted.

§ 404.425 Total amount of deductions where deduction events occur in more than 1 month.

If a deduction event described in §§ 404.415, 404.417, and 404.421 occurs in more than 1 month, the total amount deducted from an individual's benefits is equal to the sum of the deductions for all months in which any such event occurred.

[68 FR 40122, July 7, 2003]

§ 404.428 Earnings in a taxable year.

(a) When we apply the annual earnings test to your earnings as a beneficiary under this subpart (see § 404.415), we count all of your earnings (as defined in § 404.429) for all months of your

taxable year even though you may not be entitled to benefits during all months of that year. (See § 404.430 for the rule that applies to the earnings of a beneficiary who attains full retirement age (as described in § 404.409(a))).

(b) Your taxable year is presumed to be a calendar year until you show to our satisfaction that you have a different taxable year. If you are self-employed, your taxable year is a calendar year unless you have a different taxable year for the purposes of subtitle A of the Internal Revenue Code of 1986. In either case, the number of months in a taxable year is not affected by:

(1) The date a claim for Social Security benefits is filed;

(2) Attainment of any particular age;

(3) Marriage or the termination of marriage; or

(4) Adoption.

(c) The month of death is counted as a month of the deceased beneficiary's taxable year in determining whether the beneficiary had excess earnings for the year under § 404.430. For beneficiaries who die after November 10, 1988, we use twelve as the number of months to determine whether the beneficiary had excess earnings for the year under § 404.430.

(d) Wages, as defined in § 404.429(c), are charged as earnings for the months and year in which you rendered the services. Net earnings or net losses from self-employment count as earnings or losses in the year for which such earnings or losses are reportable for Federal income tax purposes.

[70 FR 28811, May 19, 2005]

§ 404.429 Earnings; defined.

(a) *General.* The term "earnings" as used in this subpart (other than as a part of the phrase "net earnings from self-employment") includes the sum of your wages for services rendered in a taxable year, plus your net earnings from self-employment for the taxable year, minus any net loss from self-employment for the same taxable year.

(b) *Net earnings or net loss from self-employment.* Your net earnings or net loss from self-employment are determined under the provisions in subpart K of this part, except that:

(1) In this section, the following occupations are included in the definition